Ohio Administrative Code

Rule 5160-45-01 Ohio department of medicaid (ODM) -administered waiver program: definitions.

Effective: October 17, 2020

The following terms apply to Ohio department ofmedicaid (ODM) -administered waiver programs:

(A) "Abuse" has the same meaning as set forth in rule 5160-44-05 of the Administrative Code.

(B) "Accreditation commission for health care" or "(ACHC)" is a national organization that evaluates and accredits agencies seeking to participate in the medicare and medicaid programs. For the purpose of providing services to individuals enrolled on an ODM-administered waiver, ACHC-accredited agencies are "otherwise-accredited agencies" that can provide the same ODM-administered waiver services that community health accreditation program (CHAP) -accredited and the joint commission-accredited agencies provide.

(C) "Activity of daily living" has the same meaning as set forth in rule 5160-3-05 of the Administrative Code.

(D) "Agency provider" is an entity that is eligible to furnish services in the medicaid program upon execution of a medicaid provider agreement in accordance with rule 5160-1-17.2 of the Administrative Code.

(E) "Applicant" is a person who is requesting a determination of eligibility for enrollment in an ODM-administered waiver.

(F) "Authorized representative" is a person the individual appoints to act on his or her behalf in accordance with rule 5160-1-33 of the Administrative Code.

(G) "Case management contractor" is the entity designated by ODM to provide case management services to individuals enrolled on an ODM-administered waiver. This may include a contracted case management agency, a MyCare Ohio plan and/or ODM itself.

(H) "Case management services" are the administrative activities that link, coordinate and monitor the services, supports and resources provided to an individual enrolled on an ODM-administered waiver.

(I) "Case manager" is a registered nurse (RN), licensed social worker (LSW) or licensed independent social worker (LISW) employed by the case management contractor who provides case management services to individuals enrolled on an ODM-administered waiver. The case manager is responsible for developing and monitoring the individual's person-centered services plan as described in rule 5160-44-02 of the Administrative Code.

(J) "Case manager contact" is a phone conversation, email exchange or other electronic communication with an individual or provider that ensures the exchange of information between the case manager and the individual. Electronic communications without response are not considered a case manager contact.

(K) "Case manager visit" is a face-to-face encounter between an individual and a case manager in the individual's residence. Meetings and encounters at locations other than the individual's place of residence are only considered visits when completed in an institutional or other service delivery location for the purpose of completing an assessment for waiver eligibility and/or developing a discharge plan. Case managers must interact (i.e., converse, make visual contact and otherwise engage the individual at his or her functional ability) during every case manager visit. The face-to-face encounter between an individual and a case manager may be conducted by telephone or electronically, unless the individual's needs require a face-to-face visit.

(L) "Clinical record" is a record containing written documentation that must be maintained by each ODM-administered waiver service provider.

(M) "Community health accreditation program" or "(CHAP)" is a national organization that evaluates and accredits agencies seeking to participate in the medicare and medicaid programs. For the purpose of providing services to individuals enrolled on an ODM-administered waiver, CHAP-accredited agencies are "otherwise-accredited agencies" that can provide the same ODM-administered waiver services that ACHC-accredited and the joint commission-accredited agencies provide.

(N) "Comprehensive assessment" is an evaluation of an individual's long-term service and support needs that is used to determine level of care and eligibility for enrollment in an ODM-administered waiver, and to inform service planning. The comprehensive assessment includes a face-to-face evaluation and examines an individual's activities of daily living, instrumental activities of daily living, natural supports, cognition, health status, behavioral health status, safety and environment.

(O) "Electronic Visit Verification" or "EVV" has the same meaning as set forth in rule 5160-1-40 of the Administrative Code.

(P) "Group rate" has the same meaning as set forth in rules 5160-46-06 and 5160-46-06.1 of the Administrative Code.

(Q) "Group setting" has the same meaning as set forth in rules 5160-44-22, 5160-44-27, 5160-46-04, 5160-46-06, and 5160-46-06.1 of the Administrative Code.

(R) "Health and safety action plan" or "HSAP" is the document created between ODM and its designee and an individual enrolled on an ODM-administered waiver that identifies the interventions recommended by the case management contractor to remedy risks to the health, safety and welfare of the individual.

(S) "Health and welfare" is the basis for an assurance to CMS made by ODM that necessary safeguards are taken to protect the health, safety and welfare of individuals enrolled on an ODM-administered waiver. CMS will not grant an ODM-administered waiver, and may terminate an existing ODM-administered waiver, if ODM fails to assure compliance with this requirement. Health and welfare safeguards include policies and procedures that direct the following:

(1) Risk and safety evaluations and planning;

(2) Incident management;

(3) Housing and environmental safety evaluations and planning;

(4) Restraint, seclusion and restrictive intervention evaluations and planning;

(5) Medication management; and

(6) Natural disaster and public emergency response planning.

(T) "Helping Ohioans move, expanding (HOME) choice" mean Ohio's money follows the person program described in Chapter 5160-51 of the Administrative Code that assists individuals with transferring from an institutional long term care setting to a home setting.

(U) "Intermediate care facility for individuals with intellectual disabilities (ICF-IID) level of care" has the same meaning as that term is set forth in rule 5123-8-01 of the Administrative Code.

(V) "Incident" has the same meaning as set forth in rule 5160-44-05 of the Administrative Code.

(W) "Individual" is a person who is enrolled on an ODM-administered waiver.

(X) "Individual waiver agreement" is the ODM-approved agreement signed by an individual and the case manager that assures the individual is voluntarily enrolling in an ODM-administered waiver as an alternative to receiving medicaid long term services and supports in an institutional setting. The responsibilities an individual must understand and agree to as a condition of waiver enrollment are set forth in the agreement.

(Y) "Institutional setting" is any nursing facility, intermediate care facility for individuals with intellectual disabilities (ICF-IID) or hospital.

(Z) "Instrumental activity of daily living" has the same meaning as set forth in rule 5160-3-05 of the Administrative Code.

(AA) "Intermediate level of care" has the same meaning as set forth in rule 5160-3-08 of the Administrative Code.

(BB) "Legally responsible family member," as that term is used in ODM-administered waivers, is an

individual's spouse, or in the case of a minor, the individual's birth or adoptive parent.

(CC) "Medical necessity" and "medically necessary" have the same meaning as set forth in rule 5160-1-01 of the Administrative Code.

(DD) "Medicare-certified home health agency" is any entity, agency or organization that has and maintains medicare certification as a home health agency, and is eligible to participate in the medicaid program upon execution of a medicaid provider agreement in accordance with rule 5160-1-17.2 of the Administrative Code.

(EE) "MyCare Ohio plan" has the same meaning as set forth in rule 5160-58-01 of the Administrative Code.

(FF) "Natural supports" are unpaid caregivers who provide care to an individual.

(GG) "Neglect" has the same meaning as set forth in rule 5160-44-05 of the Administrative Code.

(HH) "Non-agency provider" means an RN, a licensed practical nurse (LPN) at the direction of an RN, a non-agency personal care aide, or a non-agency home care attendant who is eligible to participate in the medicaid program upon execution of a medicaid provider agreement in accordance with rule 5160-1-17.2 of the Administrative Code.

(II) "Nursing facility-based level of care" has the same meaning as set forth in rule 5160-3-05 of the Administrative Code.

(JJ) "ODM-administered waiver programs" are home and community-based services waivers administered by ODM in accordance with Chapters 5160-44, 5160-45, 5160-46 and/or 5160-58 of the Administrative Code, as applicable.

(KK) "ODM-administered waiver provider" is any entity or non-agency provider eligible to furnish ODM-administered waiver services upon execution of a medicaid provider agreement in accordance with rule 5160-1-17.2 of the Administrative Code.

(LL) "Otherwise-accredited agency" is an entity that has and maintains accreditation by a national accreditation organization for the provision of services upon execution of a medicaid provider agreement in accordance with rule 5160-1-17.2 of the Administrative Code. The national accreditation organization shall be approved by CMS.

(MM) "Person-centered services plan" is the document that identifies person-centered goals, objectives and interventions selected by the individual and team to support him or her in his or her community of choice. The plan addresses the assessed needs of the individual by identifying medically-necessary services and supports provided by natural supports, medical and professional staff and community resources.

(NN) "Person-centered planning" is a process directed by the individual, that identifies his or her strengths, values, capacities, preferences, needs and desired outcomes. The process includes team members who assist and support the individual to identify and access medically necessary services and supports needed to achieve his or her defined outcomes in the most inclusive community setting. The individual and team identify goals, objectives and interventions to achieve these outcomes which are documented on the person-centered services plan by the case manager. The person-centered service planning process is described in rule 5160-44-02 of the Administrative Code.

(OO) "Provider" means a person or agency that has entered into a medicaid provider agreement for the purpose of furnishing ODM-administered waiver services. In the case of an agency, provider includes the agency's respective staff who have direct contact with individuals.

(PP) "Provider oversight contractor" is the entity designated by ODM to perform quality assurance, monitoring and oversight functions related to the ODM-administered waiver program.

(QQ) "Plan of care" is the medical treatment plan that is established, approved and signed by the treating physician. The plan of care is not the same as the person-centered services plan.

(RR) "Reportable incident" has the same meaning as set forth in rule 5160-44-05 of the Administrative Code.

(SS) "Restraint" is any of the following:

(1) "Chemical restraint," i.e., the use of any sedative psychotropic drug exclusively to manage or control behavior; or

(2) "Mechanical restraint," i.e., the use of any device to restrict an individual's movement or function, or that is used for any purpose other than positioning and/or alignment; or

(3) "Physical restraint," i.e., any hands-on or physical method that is used to restrict the movement or function of the individual's head, neck, torso, one or more limbs or entire body.

(TT) "Restrictive intervention" is any action or activity that limits an individual's rights for a period of time to assure an individual's health, safety or welfare. Restrictive intervention may only be used to safeguard individuals from accident or injury, or to help promote optimal health and welfare. Restrictive interventions include, but are not limited to, locking cabinets, using door alarms or limiting access to a desired item contingent upon a behavior or activity.

(UU) "Seclusion" or "time-out" is any restriction that is used to address a specified behavior and that prevents the individual from leaving a location for any period of time. Seclusion may include, but is not limited to, preventing an individual from leaving an area until he or she is calm.

(VV) "Significant change" is a variation in the health, care or needs of an individual that warrants further evaluation to determine if changes to the type, amount or scope of services are needed. Significant changes include, but are not limited to, differences in health status, caregiver status, residence/location of service delivery and service delivery that result in the individual not receiving waiver services for thirty days.

(WW) "Skilled level of care" has the same meaning as set forth in rule 5160-3-08 of the Administrative Code.

(XX) "Team" is a group of persons freely chosen by the individual to assist and support him or her in the development and implementation of his or her person-centered services plan. The team is led by the individual and must include the case manager. It can also include, but is not limited to, the

individual's friends, family and natural supports, the physician and other professionals and providers.

(YY) "The joint commission" is a national organization that evaluates and accredits agencies that seek to participate in the medicare and medicaid programs. For the purpose of providing services to individuals enrolled on an ODM-administered waiver, the joint commission-accredited agencies are "otherwise-accredited agencies" that can provide the same ODM-administered waiver services that ACHC-accredited and CHAP-accredited agencies provide.

(ZZ) "Time away" is a restrictive intervention during which an individual is directed away from a location or activity using only verbal prompting to address a specified behavior. The individual is able to return to the location or activity at his or her choosing. Time away shall never include the use of a physical prompt or escort. The use of a physical prompt or required timeline for re-engaging in an activity will elevate the intervention to seclusion.

(AAA) "Unexplained death" has the same meaning as set forth in rule 5160-44-05 of the Administrative Code.